



Jfw

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

3

Application Number

10/607,664

Filing Date

June 27, 2003

First Named Inventor

Ferree

Art Unit

3738

Examiner Name

Snow

Attorney Docket Number

SP112.1

ENCLOSURES (Check all that apply)

☐

Fee Transmittal Form

☐

Fee Attached

☒

Amendment/Reply

☐

After Final

☐

Affidavits/declaration(s)

☐

Extension of Time Request

☐

Express Abandonment Request

☐

Information Disclosure Statement

☐

Certified Copy of Priority Document(s)

☐

Reply to Missing Parts/
Incomplete Application

☐

Reply to Missing Parts
under 37 CFR 1.52 or 1.53

☐

Drawing(s)

☐

Licensing-related Papers

☐

Petition

☐

Petition to Convert to a
Provisional Application

☐

Power of Attorney, Revocation

☐

Change of Correspondence Address

☐

Terminal Disclaimer

☐

Request for Refund

☐

CD, Number of CD(s) _____

Landscape Table on CD

☐

After Allowance Communication to TC

☐

Appeal Communication to Board
of Appeals and Interferences

☐

Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)

☐

Proprietary Information

☐

Status Letter

☒

Other Enclosure(s) (please identify
below):

Return Postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Jerrold J. Litzinger

Signature

Jerrold J. Litzinger

Printed name

Jerrold J. Litzinger

Date

July 25, 2005

Reg. No.

29402

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature

Jerrold J. Litzinger

Typed or printed name

Jerrold J. Litzinger

Date

July 25, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: FERREE

Serial No.: 10/607,664

Filing Date: June 27, 2003

For: BONE CELL COVERED
ARTHROPLASTY DEVICES

Group Art Unit: 3738

Examiner: Snow

Honorable Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

RESPONSE TO RESTRICTION REQUIREMENT

Responsive to the restriction requirement set forth in the Office Action dated June 23, 2005 (Paper No. 06202005), Applicant hereby provisionally elects claims 13-19 for continued examination, with traverse.

The examiner states that the application includes two distinct inventions: claims 1-12 drawn to a prosthetic device; and claims 13-19 drawn to a method of implanting/harvesting/culturing bone cells on a prosthetic device.

FIGS. 1, 2, 4, 5C, 5D, 9A and 10A all show a prosthetic device which is manufactured according to the present invention. The procedure for developing this device is described in detail in the specification from page 24, line 24, through page 26, line 5.

Applicant elects the femoral implant shown in FIG. 1 having a textured surface area contacting the bone, where bone cells are grown onto the textured surface, which is prepared according to claim 13.

Finally, applicant respectfully submits that, given the circumstances of this case, where there is a reasonable number of claims, it would not be a serious burden to examine the claims pending at this time. M. P. E. P. § 803 directs as follows (emphasis added): "If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions. This directive should be followed in this case.

Allowance of the application is respectfully solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jerrold J. Litzinger". The signature is fluid and cursive, with the first name "Jerrold" and last name "Litzinger" clearly distinguishable.

Jerrold J. Litzinger
Attorney for Applicant
Reg. No. 29,402
2134 Madison Road
Cincinnati, Ohio 45208